

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
for Recovery of Franchise Fee Remittances  
Associated with Revenues for Repayment of the  
Rate Reduction Bonds.

Application 05-09-009  
(Filed September 8, 2005)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE  
SCOPING MEMO AND RULING**

**Summary**

This ruling and scoping memo sets forth the schedule and issues to be addressed in this proceeding.

**Categorization and Need for Hearings**

This ruling confirms the Commission's preliminary categorization in Resolution ALJ 176-3159 dated September 22, 2005, of ratesetting. This ruling is appealable under Rule 6.4 of the Commission's Rules of Practice and Procedure.

We also confirm the preliminary determination that hearings are not necessary.

**The Application**

By this application, Pacific Gas and Electric Company (PG&E) seeks Commission authorization to recover in rates, the franchise fees it pays to cities and counties in conjunction with the revenues it receives to repay Rate Reduction Bonds. According to PG&E, it is unable to recover these costs because of an inadvertent omission from its filed tariffs.

## **Procedural Summary**

On October 13, 2005, the Division of Ratepayer Advocates (DRA) filed a Protest to the Application. In its Protest, DRA requested the opportunity to conduct discovery and present testimony in response to PG&E's application. On October 24, 2005, PG&E filed a Response to the Protest and on November 9, 2005, the assigned Administrative Law Judge (ALJ) held a prehearing conference (PHC) to determine the parties, positions of the parties, issues and other procedural matters.

At the November PHC, it was agreed that DRA would advise the ALJ and parties regarding the proposed scope of this proceeding after it received PG&E's responses to the data requests it planned to send the company. DRA sent PG&E its data requests on November 20, 2005; PG&E sent its responses on December 16, 2005. On January 20, 2006, DRA provided a proposed scoping memo listing five issues it believes should be addressed in this proceeding. PG&E replied on January 27, 2006.

## **Scope of the Proceeding**

According to PG&E, the scope of this proceeding is straightforward:

**A. Consistent with the general ratemaking approach for franchise fees, should PG&E be authorized to recover amounts for the franchise fees associated with Fixed Transition Amount (FTA) revenues?**

There is no factual dispute regarding this issue. It should be addressed in briefs.

DRA raises five issues which it believes should be included in this proceeding. These issues are discussed below.

**B. Whether the Terms of the PG&E-CPUC Bankruptcy Settlement Preclude the Relief Sought by PG&E**

Whether the terms of the PG&E-Commission bankruptcy settlement preclude PG&E from an opportunity to recover a portion of the franchise fee expenses that it will be incurring in March 2006, and for several years after that, is an issue within the scope of this proceeding. However, there is no factual dispute associated with this topic that would require hearings. It should be addressed in briefs.

**C. Whether PG&E has and will under-recover Franchise Fees in the Amounts PG&E has estimated**

DRA suggests that perhaps there should be some sort of balancing account treatment for franchise fees, whereby the revenues PG&E collects associated with the franchise fee factor are balanced against PG&E's actual franchise fee costs. This would be a complete revision of the general rate case ratemaking treatment for franchise fees, and is beyond the scope of this proceeding.

**D. Whether Other Revenues received by PG&E Offset the Need for Recovery of the Alleged Prospective Under Collections**

DRA appears to suggest that, as a part of this application, the Commission should conduct a general evaluation of all revenues received by PG&E under all ratemaking mechanisms. Such a sweeping investigation of the ratemaking generally applicable to PG&E belongs in a general ratemaking proceeding such as a General Rate Case (GRC). Such a general investigation that DRA seems to be proposing is beyond the scope of this proceeding.

**E. Whether it is Appropriate to Modify One Aspect of Commission-approved General Rate Case Revenue Requirements, Outside of the Normal Rate Case Process**

In a GRC, the Commission does not adopt a specific revenue requirement figure that PG&E is to recover for franchise fees. Instead, it adopts a factor, and

that factor is applied to all revenues, including revenues established by other proceedings in addition to the GRC. This issue is beyond the scope of this proceeding, as well, because PG&E is not proposing any modification of the Commission-approved GRC revenue requirements.

**F. Whether Granting PG&E's Request Would Violate any of the Provisions of Section 840 *et seq.* of the Public Utilities Code and/or D.97-09-055, the Rate Reduction Bond Decision**

Whether granting PG&E's request would violate any of the provisions of Section 840 *et seq.* of the Public Utilities Code and/or D.97-09-055 can be addressed in briefs. There is no factual dispute associated with this topic and hearings are not required.

In summary, the scope of this proceeding is limited to issues A, B, and F above, in addition to matters set forth in PG&E's application and prepared testimony.

**Schedule**

Since there is no need for hearings, this matter will be decided based on the briefs to be filed as follows:

Opening Briefs: Friday, February 24, 2006

Reply Briefs Friday, March 10, 2006

Submission Date: Friday, March 17, 2006

Our goal is to resolve this proceeding as soon as possible. We anticipate that the resolution of the issues raised in this scoping memo will not exceed 18 months from the date of this scoping memo, pursuant to Public Utilities Code Section 1701.5(a).

### **Principal Hearing Officer and Final Oral Argument**

This ruling designates ALJ Patrick as the principal hearing officer. Pursuant to Rule 8(d), parties requesting oral argument should do so concurrently with the filing of reply briefs.

### **Ex Parte Communications**

This ratesetting proceeding is subject to Public Utilities Code Section 1701.3(c), as well as Rules 7(c), (f), and (g) and 7.1.

Therefore, **IT IS RULED** that:

1. This ruling confirms the Commission's preliminary categorization in Resolution ALJ 176-3159 dated September 22, 2005, of ratesetting. This ruling is appealable under Rule 6.4.
2. This ruling confirms the Commission's preliminary determination that hearings are not necessary.
3. The scope of this proceeding is limited to issues A, B, and F, as set forth herein, in addition to matters set forth in PG&E's application and prepared testimony.
4. The schedule of this proceeding, including projected submission date, is set forth in this ruling. The ALJ may make any revisions to this schedule, as necessary to facilitate the efficient management of the proceeding.
5. ALJ Patrick is designated as the principal hearing officer.
6. Rules 7(c), (f), and (g) and 7.1 apply to this proceeding regarding ex parte communication.

Dated February 2, 2006, at San Francisco, California.

/s/ Michael R. Peevey  
Michael R. Peevey

/s/ Bertram D. Patrick  
Bertram D. Patrick

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Assigned Commissioner

Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge Scoping Memo and Ruling on all parties of record in this proceeding or their attorneys of record.

Dated February 2, 2006, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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